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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,358	07/27/2001	David B. Loeper	FINANCE 3	9160
7590	08/16/2006		EXAMINER	
John H. Thomas, P.C. 536 Granite Avenue Richmond, VA 23226			KYLE, CHARLES R	
			ART UNIT	PAPER NUMBER
				3624

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/916,358	LOEPER, DAVID B.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Charles Kyle	3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 June 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,021,397 *Jones et al* in view of *Investing for Retirement: Using the Past to Model the Future*, hereinafter, *Bierwirth*.

**As to Claim 1,** *Jones* discloses the invention substantially as claimed as in a method for evaluating financial plans (Abstract) the steps of:

Receiving from a user financial plan information, comprising a predetermined initial value of an investment (Col. 18, lines 27-29), at least one predetermined contribution amount at a predetermined contribution time (Col. 18, line 21 and Col. 18, lines 43-48), at least one predetermined withdrawal amount at a predetermined withdrawal time subsequent to the predetermined contribution time (Col. 22, lines 56-60) and a plan duration (Col. 17, line 36-43 and Col. 18, lines 27-28);

Presenting calculated investment values using results of said steps (Col. 20, lines 7-30).

*Jones* does not specifically disclose the detail of simulating historical performance of a portfolio to analyze financial plans. *Bierwirth* discloses these particular features as follows:

Selecting a first historical commencement date for a simulation of performance of a financial plan consistent with financial plan information (Page 3, lines 24-26);

Using historical market data commencing from said first historical commencement date, calculating the changes in said predetermined initial value of an investment for each time period in one or more series of successive historical time periods including allowing for said predetermined contribution amount and said predetermined withdrawal amount continuing until an expiration of the plan duration (Page 3, lines 35-38); and

Selecting a plurality of second historical commencement dates and repeating the foregoing steps of calculation commencing with each of said second historical commencement dates (Page 3, lines 29-32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the financial plan analysis of *Jones* with the historical analysis of *Birwirth* because of the improved performance resulting from this historical approach. These benefits are specifically set out by *Birwirth* as follows. *Birwirth* describes problems with unrealistic assumptions of traditional financial plans at the last paragraph of page 1 and describes the solution to this problem as using the historical investment experience of others to produce more realistic and useful retirement modeling. See particularly the Conclusion at page 6 of *Birwirth*.

Random selection of data in simulations and multiple (e.g., third and fourth “runs”) are old and well known in the modeling arts; the Examiner makes these assertions having studied computer simulation as a specialization in a Masters Degree program. The Examiner has executed simulations on computers having thousands of iterations.

**Concerning Claims 2, 9 and 15,** *Jones* et al disclose the presentation of results at Col. 4, lines 24-34 and Col. 11, lines 7-10.

**Regarding Claims 3, 10 and 16,** *Jones* discloses multiple asset categories and distinct historical data at Fig. 4 and Col. 12, line 54 to Col. 13, line 41.

**As to Claims 4, 11 and 17,** comparison of results of calculation to a goal would be obvious to assess performance of the modeled financial plan.

**Concerning Claims 5, 12 and 18,** *Jones* discloses adjustment for taxes at Fig. 3 and Col. 8, lines 1-13

**With respect to Claims 6, 13 and 19,** *Jones* et al teach the entry of initial investment values and allocation to asset categories at Col. 5, line 50 to Col. Col. 7, line 10.

**Concerning Claim 7,** see the discussion of plural runs in the rejection of Claim1.

**As to Claims 8 and 14,** see the discussion of Claim1; *Jones* discloses system and storage media at Col. 4, line 60 to Col. 5, line 49.

#### ***Response to Arguments***

Applicant's arguments filed June 2, 2006, with respect to the rejection(s) of claim(s) 1-19 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Bierwirth.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Kyle whose telephone number is (571) 272-6746. The examiner can normally be reached on 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

crk  
August 13, 2006

**Primary Examiner**  
**Charles Kyle**  
**Art Unit 3624**

